

Remarks/Arguments

Applicant has carefully reviewed the Final Office Action mailed of October 17, 2007, the Advisory Action of January 29, 2008, and the Notice of Panel Decision from Pre-Appeal Brief Review of June 19, 2008, in which claims 13-24 and 31-33 are pending and have been rejected. In this amendment, claims 13, 23, and 24 have been amended. Support for the amendments can be found at page 6, lines 11-16 of the specification. No new material has been added. Favorable consideration of the above amendments and the following remarks is respectfully requested. This paper is being filed with a Request for Continued Examination.

Claim Rejections - 35 U.S.C. § 102/103

Claims 13-15, 23-24 and 31-33 have been rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Lefebvre (U.S. Patent No. 5,108,418). Applicant respectfully traverses the rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (MPEP 2131). “*** “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” (MPEP 2143.03).

The Examiner asserts that Lefebvre teaches a filter with a centering configuration represented by disposing the filter inside a deployment sheath and a filtering configuration represented by the filter following deployment into a blood vessel. The movement from inside the sheath to the deployed position in the vessel is considered to be actuation between the configurations.

While Lefebvre does not appear to disclose a “pad configured to abut the wall of a blood vessel” in the centering configuration as viewed by the Examiner, the independent claims have been amended to add an additional distinguishing element over the cited reference. In reference to the claimed filter leg(s), the claims now recite, in part, “including a bend region in the proximal section forming a pad”. The device disclosed by Lefebvre does not appear to include

any feature that may be considered a pad configured to abut a vessel wall on the proximal portion of the filter legs.

Therefore, for at least the reason that Lefebvre does not teach this element of the claimed invention, Applicant submits that claim 13 is both novel and non-obvious over Lefebvre. The other independent claims, claims 23 and 24, contain similar language and thus are in condition for allowance for like reasons. Applicant also submits that claims 14-15 and 31-33 are in condition for allowance because each depends from one of claims 13, 23 or 24, which Applicant submits are allowable, and contains additional elements. Applicant respectfully requests that the rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 16-17 and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lefebvre in view of Simon (U.S. Patent No. 4,425,908); claim 18 was rejected under 35 U.S.C. § 103(a) as unpatentable over Lefebvre in view of Simon and further in view of Boylan et al. (U.S. Patent No. 6,602,272); and claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lefebvre as applied to claim 13 above in view of Mazzocchi et al. (U.S. Patent No. 6,949,103). Applicant respectfully traverses the rejection.

“** “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” (MPEP 2143.03).

As discussed above, Applicant believes that Lefebvre does not disclose each element of the independent claims. None of the cited references (alone or in combination) appear to remedy this shortcoming. Accordingly, for at least the reason that these claims depend either directly or indirectly from independent claims which Applicant submits are allowable, and add additional elements thereto, Applicant submits that these claims are in condition for allowance as well, and requests that the rejection be withdrawn.

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are currently in condition for allowance. Issuance of a Notice of Allowance in

due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

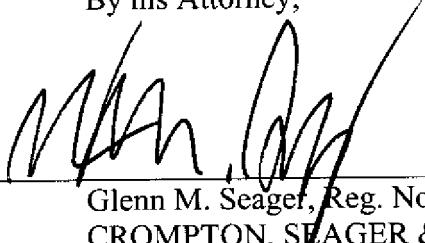
Respectfully submitted,

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By his Attorney,

Date:

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